THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.7600 OF 2003

DATED: 20-12-2006

Between:

Muthineni Somanadham

.. Petitioner

and

The Executive Engineer, Irrigation Department, Nalgonda, Nalgonda District and others

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.7600 OF 2003

Order:

This writ petition is filed seeking a mandamus declaring the action of the respondents in deciding to demolish and remove the barbed wire fencing constructed in and around the plotted land of the petitioner admeasuring 125 square yards in Sy.No.1065 of Kodad village and mandal, Nalgonda District without issuing any notice, as arbitrary, illegal and violative of principles of natural justice.

It appears, the petitioner has purchased a piece of land admeasuring 125 square yards in Sy.No.1065 of Kodad village and mandal, Nalgonda District through a registered sale deed dated 05-03-1993 for valuable consideration. After the purchase, he has been in continuous possession and enjoyment of the same without any interference from any person or authority. He had also erected a barbed wire fencing in and around the said plot to protect the same from land grabbers and unsocial elements. While so, the respondents, by a news item published in Eenadu Telugu Daily of Nalgonda District Edition dated 02-04-2003, declared that certain people have occupied the Pedda Cheruvu Shikam land of Kodad village basing on the survey conducted in the month of December 2002. The respondents specifically declared that Sy.No.145 is Shikam land and falling within the tank area. Therefore, they have decided to demolish the structures falling under the Pedda Cheruvu tank as per the survey

conducted by them in December 2002. But, so far as the petitioner is concerned, no notice of any kind has been issued nor he has been declared as unauthorized occupant of the tank land. The respondents visited the petitioner's land on 04-04-2003 along with the men of Grampanchayat and also on 15-04-2003 and 22-04-2003 for removing and occupying the same. Hence the petitioner filed this writ petition.

The learned counsel for the petitioner stated that under similar circumstances, Writ Petition No.6066 of 2003 was disposed of by this Court on 12-07-2006. In the said writ petition, the learned Standing Counsel for the respondents therein stated that though the name of the petitioner does not find place in the list, since the petitioner's lands are adjacent to the Government land, there is every possibility of the petitioner encroaching into the Government land. On the said submission, it was observed that the submission made by the learned Standing Counsel cannot be accepted for the reason that merely because the petitioner's land is situated adjacent to the Government land, the petitioner is likely to encroach into the Government land. It was further observed that it is always open for the authorities to take necessary action in accordance with law or by following due process of law, if there is any encroachment of the Government land.

In the present case also, absolutely, no notice of any kind has been issued before proposing to demolish the structures or fencing wire erected by the petitioner in the subject land. Therefore, the respondents are directed not to demolish the barbed wire fencing erected by the petitioner, without issuing any notice and without following the due process of law.

With the above direction, the writ petition is disposed of. No order as to costs.

C.V. RAMULU, J

20-12-2006.

IBL

-

-

-